

Senate File 2239

H-8119

Amend Senate File 2239, as amended, passed, and reprinted by the Senate, as follows:

1. By striking everything after the enacting clause and inserting:

<DIVISION I

ELDER ABUSE RELIEF

Section 1. NEW SECTION. 235F.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Attorney in fact*" means an attorney in fact under a power of attorney pursuant to chapter 633B or an attorney in fact under a durable power of attorney for health care pursuant to chapter 144B.

2. "*Caretaker*" means a related or nonrelated person who has the responsibility for all or a substantial portion of the protection, care, or custody of a vulnerable elder as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

3. "*Conservator*" means the same as defined in section 633.3.

4. *a.* "*Elder abuse*" means any of the following:

(1) The nonaccidental infliction of bodily injury on a vulnerable elder by a caretaker.

(2) The commission of a sexual offense under chapter 709 or section 726.2 with or against a vulnerable elder.

(3) Neglect which is the substantial deprivation of the minimum food, shelter, clothing, supervision, or physical or mental health care, or other care necessary to maintain a vulnerable elder's life or health by a caretaker.

(4) Financial exploitation as provided in section 726.24.

b. "*Elder abuse*" does not include any of the following:

(1) Circumstances in which the vulnerable elder declines medical treatment if the vulnerable elder holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the vulnerable elder's caretaker, acting in accordance with the vulnerable elder's stated or implied consent, declines medical treatment if the vulnerable elder holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(3) The withholding or withdrawing of health care from a vulnerable elder who is terminally ill in the

1 opinion of a licensed physician, when the withholding
2 or withdrawing of health care is done at the request
3 of the vulnerable elder or at the request of the
4 vulnerable elder's next of kin, attorney in fact, or
5 guardian pursuant to the applicable procedures under
6 chapter 125, 144A, 144B, 222, 229, or 633.

7 (4) Good faith assistance by a family or household
8 member or other person in managing the financial
9 affairs of a vulnerable elder at the request of the
10 vulnerable elder or at the request of a family member,
11 guardian, or conservator of the vulnerable elder.

12 5. "*Family or household member*" means a spouse,
13 a person cohabiting with the vulnerable elder, a
14 parent, or a person related to the vulnerable elder
15 by consanguinity or affinity, but does not include
16 children of the vulnerable elder who are less than
17 eighteen years of age.

18 6. "*Fiduciary*" means a person or entity with the
19 legal responsibility to make decisions on behalf of
20 and for the benefit of a vulnerable elder and to act
21 in good faith and with fairness. "*Fiduciary*" includes
22 but is not limited to an attorney in fact, a guardian,
23 or a conservator.

24 7. "*Financial exploitation*" means financial
25 exploitation as provided in section 726.24.

26 8. "*Guardian*" means the same as defined in section
27 633.3.

28 9. "*Peace officer*" means the same as defined in
29 section 801.4.

30 10. "*Plaintiff*" means a vulnerable elder who
31 files a petition under this chapter and includes a
32 substitute petitioner who files a petition on behalf of
33 a vulnerable elder under this chapter.

34 11. "*Present danger of elder abuse*" means a
35 situation in which the defendant has recently
36 threatened the vulnerable elder with initial
37 or additional elder abuse, or the potential for
38 misappropriation, misuse, or removal of the funds,
39 benefits, property, resources, belongings, or assets of
40 the vulnerable elder combined with reasonable grounds
41 to believe that elder abuse is likely to occur.

42 12. "*Pro se*" means a person proceeding on the
43 person's own behalf without legal representation.

44 13. "*Substitute petitioner*" means the guardian,
45 conservator, attorney in fact, or guardian ad litem
46 for a vulnerable elder who files a petition under this
47 chapter.

48 14. "*Vulnerable elder*" means a person sixty-five
49 years of age or older who is unable to protect himself
50 or herself from elder abuse as a result of a mental or

1 physical condition or advanced age.
2 Sec. 2. NEW SECTION. 235F.2 Commencement of
3 actions — waiver to juvenile court.
4 1. A vulnerable elder, or the guardian,
5 conservator, attorney in fact, or guardian ad litem of
6 a vulnerable elder, may seek relief from elder abuse
7 by filing a verified petition in the district court.
8 Venue shall lie where either party resides. The
9 petition shall state all of the following:
10 a. The name of the vulnerable elder and the name
11 and address of the vulnerable elder's attorney, if
12 any. If the vulnerable elder is proceeding pro se,
13 the petition shall state a mailing address for the
14 vulnerable elder.
15 b. The name of the substitute petitioner if the
16 petition is being filed on behalf of a vulnerable
17 elder, and the name and address of the attorney of the
18 substitute petitioner. If the substitute petitioner is
19 proceeding pro se, the petition shall state a mailing
20 address for the substitute petitioner.
21 c. The name and address, if known, of the
22 defendant.
23 d. The relationship of the vulnerable elder to the
24 defendant.
25 e. The nature of the alleged elder abuse.
26 f. The name and age of any other individual whose
27 welfare may be affected.
28 g. The desired relief, including a request for
29 temporary or emergency orders.
30 2. A temporary or emergency order may be based on a
31 showing of a prima facie case of elder abuse. If the
32 factual basis for the alleged elder abuse is contested,
33 the court shall issue a protective order based upon
34 a finding of elder abuse by a preponderance of the
35 evidence.
36 3. a. The filing fee and court costs for an order
37 for protection and in a contempt action resulting from
38 an order granted under this chapter or chapter 664A
39 shall be waived for the plaintiff.
40 b. The clerk of court, the sheriff of any county in
41 this state, and other law enforcement and corrections
42 officers shall perform their duties relating to service
43 of process without charge to the plaintiff.
44 c. When a permanent order for protection is entered
45 by the court, the court may direct the defendant to pay
46 to the clerk of court the fees for the filing of the
47 petition and reasonable costs of service of process if
48 the court determines the defendant has the ability to
49 pay the plaintiff's fees and costs.
50 d. In lieu of personal service of an order for

1 protection issued pursuant to this section, the
2 sheriff of any county in the state, and any other
3 law enforcement and corrections officers may serve a
4 defendant with a short-form notification pursuant to
5 section 664A.4A.

6 4. If the person against whom relief from elder
7 abuse is being sought is seventeen years of age
8 or younger, the district court shall waive its
9 jurisdiction over the action to the juvenile court.

10 5. If a substitute petitioner files a petition
11 under this section on behalf of a vulnerable elder, the
12 vulnerable elder shall retain the right to all of the
13 following:

- 14 a. To contact and retain counsel.
- 15 b. To have access to personal records.
- 16 c. To file objections to the protective order.
- 17 d. To request a hearing on the petition.
- 18 e. To present evidence and cross-examine witnesses
19 at the hearing.

20 6. The relief provided under this chapter shall
21 not be available if the action involves a guardian
22 or conservator of the vulnerable elder and the relief
23 sought is more appropriately obtained in a protective
24 proceeding filed under chapter 633.

25 **Sec. 3. NEW SECTION. 235F.3 Plaintiffs proceeding**
26 **pro se — provision of forms and assistance.**

27 1. The judicial branch shall prescribe standard
28 forms to be used by vulnerable elders or substitute
29 petitioners seeking protective orders by proceeding pro
30 se in actions under this chapter. The standard forms
31 shall include language in fourteen point boldface type.
32 Standard forms prescribed by the judicial branch shall
33 be the exclusive forms used by plaintiffs proceeding
34 pro se under this chapter. The judicial branch shall
35 distribute the forms to the clerks of the district
36 courts.

37 2. The clerk of the district court shall furnish
38 the required forms to persons seeking protective orders
39 through pro se proceedings pursuant to this chapter.

40 **Sec. 4. NEW SECTION. 235F.4 Appointment of**
41 **guardian ad litem.**

42 The court may on its own motion or on the motion of
43 a party appoint a guardian ad litem for a vulnerable
44 elder if justice requires. The vulnerable elder's
45 attorney shall not also serve as the guardian ad litem.

46 **Sec. 5. NEW SECTION. 235F.5 Hearings — temporary**
47 **orders.**

48 1. Not less than five and not more than fifteen
49 days after commencing a proceeding and upon notice to
50 the other party, a hearing shall be held at which the

1 plaintiff must prove the allegation of elder abuse by a
2 preponderance of the evidence.

3 2. The court may enter any temporary order it deems
4 necessary to protect the vulnerable elder from elder
5 abuse prior to the hearing, upon good cause shown in
6 an ex parte proceeding. Present danger of elder abuse
7 constitutes good cause for purposes of this subsection.

8 3. If a hearing is continued, the court may make or
9 extend any temporary order under subsection 2 that it
10 deems necessary.

11 4. Upon application of a party, the court shall
12 issue subpoenas requiring attendance and testimony of
13 witnesses and production of papers.

14 5. The court shall advise the defendant of a
15 right to be represented by counsel of the defendant's
16 choosing and to have a continuance to secure counsel.

17 6. The showing required under subsection 1 may be
18 made by, but is not limited to the testimony at the
19 hearing of, any of the following:

20 a. The vulnerable elder.

21 b. The guardian, conservator, attorney in fact, or
22 guardian ad litem of the vulnerable elder.

23 c. Witnesses to the elder abuse.

24 d. Adult protective services workers who have
25 conducted an investigation.

26 7. The court shall exercise its discretion in
27 a manner that protects the vulnerable elder from
28 traumatic confrontation with the defendant.

29 8. Hearings shall be recorded.

30 Sec. 6. NEW SECTION. 235F.6 Disposition.

31 1. Upon a finding that the defendant has engaged
32 in elder abuse, the court may, if requested by the
33 plaintiff, order any of the following:

34 a. That the defendant be required to move from
35 the residence of the vulnerable elder if both the
36 vulnerable elder and the defendant are titleholders or
37 contract holders of record of the real property, are
38 named as tenants in the rental agreement concerning the
39 use and occupancy of the dwelling unit, or are married
40 to each other.

41 b. That the defendant provide suitable alternative
42 housing for the vulnerable elder.

43 c. That a peace officer accompany the party who is
44 leaving or has left the party's residence to remove
45 essential personal effects of the party.

46 d. That the defendant be restrained from abusing,
47 intimidating, molesting, interfering with, or
48 menacing the vulnerable elder, or attempting to abuse,
49 intimidate, molest, interfere with, or menace the
50 vulnerable elder.

1 e. That the defendant be restrained from entering
2 or attempting to enter on any premises when it appears
3 to the court that such restraint is necessary to
4 prevent the defendant from abusing, intimidating,
5 molesting, interfering with, or menacing the vulnerable
6 elder.

7 f. That the defendant be restrained from exercising
8 any powers on behalf of the vulnerable elder through a
9 court-appointed guardian, conservator, or guardian ad
10 litem, an attorney in fact, or another third party.

11 g. In addition to the relief provided in subsection
12 2, other relief that the court considers necessary to
13 provide for the safety and welfare of the vulnerable
14 elder.

15 2. If the court finds that the vulnerable elder has
16 been the victim of financial exploitation, the court
17 may order the relief the court considers necessary to
18 prevent or remedy the financial exploitation, including
19 but not limited to any of the following:

20 a. Directing the defendant to refrain from
21 exercising control over the funds, benefits, property,
22 resources, belongings, or assets of the vulnerable
23 elder.

24 b. Requiring the defendant to return custody or
25 control of the funds, benefits, property, resources,
26 belongings, or assets to the vulnerable elder.

27 c. Requiring the defendant to follow the
28 instructions of the guardian, conservator, or attorney
29 in fact of the vulnerable elder.

30 d. Prohibiting the defendant from transferring the
31 funds, benefits, property, resources, belongings, or
32 assets of the vulnerable elder to any person other than
33 the vulnerable elder.

34 3. The court shall not use an order issued under
35 this section to do any of the following:

36 a. To allow any person other than the vulnerable
37 elder to assume responsibility for the funds, benefits,
38 property, resources, belongings, or assets of the
39 vulnerable elder.

40 b. For relief that is more appropriately obtained
41 in a protective proceeding filed under chapter 633
42 including but not limited to giving control and
43 management of the funds, benefits, property, resources,
44 belongings, or assets of the vulnerable elder to a
45 guardian, conservator, or attorney in fact for any
46 purpose other than the relief granted under subsection
47 2.

48 4. The court may approve a consent agreement
49 between the parties entered to bring about the
50 cessation of elder abuse. A consent agreement approved

1 under this section shall not contain any of the
2 following:

3 a. A provision that prohibits any party to the
4 action from contacting or cooperating with any
5 government agency including the department of human
6 services, the department of inspections and appeals,
7 the department on aging, the department of justice,
8 law enforcement, and the office of long-term care
9 ombudsman; a licensing or regulatory agency that has
10 jurisdiction over any license or certification held
11 by the defendant; a protection and advocacy agency
12 recognized in section 135C.2; or the defendant's
13 current employer if the defendant's professional
14 responsibilities include contact with vulnerable
15 elders, dependent adults, or minors, if the party
16 contacting or cooperating has a good-faith belief
17 that the information is relevant to the duties or
18 responsibilities of the entity.

19 b. A provision that prohibits any party to the
20 action from filing a complaint with or reporting a
21 violation of law to any government agency including
22 the department of human services, the department of
23 inspections and appeals, the department on aging, the
24 department of justice, law enforcement, and the office
25 of long-term care ombudsman; a licensing or regulatory
26 agency that has jurisdiction over any license or
27 certification held by the defendant; a protection and
28 advocacy agency recognized in section 135C.2; or the
29 defendant's current employer.

30 c. A provision that requires any party to the
31 action to withdraw a complaint filed with or a
32 violation reported to any government agency including
33 the department of human services, the department of
34 inspections and appeals, the department on aging, the
35 department of justice, law enforcement, and the office
36 of long-term care ombudsman; a licensing or regulatory
37 agency that has jurisdiction over any license or
38 certification held by the defendant; a protection and
39 advocacy agency recognized in section 135C.2; or the
40 defendant's current employer.

41 5. A protective order or approved consent agreement
42 shall be for a fixed period of time not to exceed one
43 year. The court may amend or extend its order or a
44 consent agreement at any time upon a petition filed by
45 either party and after notice and hearing. The court
46 may extend the order if the court, after hearing at
47 which the defendant has the opportunity to be heard,
48 finds that the defendant continues to pose a threat to
49 the safety of the vulnerable elder, persons residing
50 with the vulnerable elder, or members of the vulnerable

1 elder's immediate family, or continues to present a
2 risk of financial exploitation of the vulnerable elder.
3 The number of extensions that may be granted by the
4 court is not limited.

5 6. The order shall state whether a person is to be
6 taken into custody by a peace officer for a violation
7 of the terms stated in the order.

8 7. The court may order that the defendant pay the
9 attorney fees and court costs.

10 8. An order or approved consent agreement under
11 this section shall not affect title to real property.

12 9. A copy of any order or approved consent
13 agreement shall be issued to the plaintiff, the
14 defendant, the county sheriff of the county in which
15 the order or consent decree is initially entered, and
16 the twenty-four-hour dispatcher for the county sheriff.
17 Any subsequent amendment or revocation of an order or
18 consent agreement shall be forwarded by the clerk to
19 all individuals previously notified.

20 10. The clerk shall notify the county sheriff and
21 the twenty-four-hour dispatcher for the county sheriff
22 in writing so that the county sheriff and the county
23 sheriff's dispatcher receive written notice within six
24 hours of filing the order, approved consent agreement,
25 amendment, or revocation. The clerk may fulfill this
26 requirement by sending the notice by facsimile or other
27 electronic transmission which reproduces the notice in
28 writing within six hours of filing the order.

29 11. The county sheriff's dispatcher shall notify
30 all law enforcement agencies having jurisdiction over
31 the matter and the twenty-four-hour dispatcher for
32 the law enforcement agencies upon notification by the
33 clerk.

34 **Sec. 7. NEW SECTION. 235F.7 Emergency orders.**

35 1. When the court is unavailable from the close
36 of business at the end of the day or week to the
37 resumption of business at the beginning of the day or
38 week, a petition may be filed before a district judge,
39 or district associate judge designated by the chief
40 judge of the judicial district, who may grant emergency
41 relief in accordance with section 235F.6, subsection 1
42 or 2, if the district judge or district associate judge
43 deems it necessary to protect the vulnerable elder
44 from elder abuse, upon good cause shown in an ex parte
45 proceeding. Present danger of elder abuse constitutes
46 good cause for purposes of this subsection.

47 2. An emergency order issued under subsection 1
48 shall expire seventy-two hours after issuance. When
49 the order expires, the plaintiff may seek a temporary
50 order from the court pursuant to section 235F.5.

1 3. A petition filed and emergency order issued
2 under this section and any documentation in support of
3 the petition and order shall be immediately certified
4 to the court. The certification shall commence a
5 proceeding for purposes of section 235F.2.

6 Sec. 8. NEW SECTION. 235F.8 Procedure.

7 1. A proceeding under this chapter shall be held in
8 accordance with the rules of civil procedure, except
9 as otherwise set forth in this chapter and in chapter
10 664A, and is in addition to any other civil or criminal
11 remedy.

12 2. The plaintiff's right to relief under this
13 chapter is not affected by leaving the vulnerable
14 elder's home to avoid elder abuse.

15 DIVISION II

16 FINANCIAL EXPLOITATION OF VULNERABLE ELDERS

17 Sec. 9. NEW SECTION. 726.24 Financial exploitation
18 of a vulnerable elder.

19 1. A person commits financial exploitation of a
20 vulnerable elder when the person stands in a position
21 of trust or confidence with the vulnerable elder and
22 knowingly and by undue influence, deception, coercion,
23 fraud, or extortion, obtains control over or otherwise
24 uses the benefits, property, resources, belongings, or
25 assets of the vulnerable elder for the person's own
26 benefit or gain.

27 2. A person who commits financial exploitation
28 of a vulnerable elder is guilty of the following, as
29 applicable:

30 a. Financial exploitation in the fifth degree which
31 is a simple misdemeanor if the value of the funds,
32 benefits, property, resources, belongings, or assets is
33 two hundred dollars or less.

34 b. Financial exploitation in the fourth degree
35 which is a serious misdemeanor if the value of the
36 funds, benefits, property, resources, belongings, or
37 assets exceeds two hundred dollars but does not exceed
38 five hundred dollars.

39 c. Financial exploitation in the third degree which
40 is an aggravated misdemeanor if the value of the funds,
41 benefits, property, resources, belongings, or assets
42 exceeds five hundred dollars but does not exceed one
43 thousand dollars.

44 d. Financial exploitation in the second degree
45 which is a class "D" felony if the value of the funds,
46 benefits, property, resources, belongings, or assets
47 exceeds one thousand dollars but does not exceed ten
48 thousand dollars.

49 e. Financial exploitation in the first degree
50 which is a class "C" felony if the value of the funds,

1 benefits, property, resources, belongings, or assets
2 exceeds ten thousand dollars.

3 3. Nothing in this section shall be construed to
4 impose criminal liability on a person who has made a
5 good-faith effort to assist a vulnerable elder in the
6 management of the vulnerable elder's funds, benefits,
7 property, resources, belongings, or assets, but through
8 no fault of the person, the person has been unable to
9 provide such assistance or does not achieve the results
10 sought by the vulnerable elder.

11 4. For the purposes of this section:

12 a. "*Coercion*" means communication or conduct which
13 unduly compels a vulnerable elder to act or refrain
14 from acting against the vulnerable elder's will and
15 against the vulnerable elder's best interests.

16 b. "*Stands in a position of trust or confidence*"
17 means the person has any of the following relationships
18 relative to the vulnerable elder:

19 (1) Is a parent, spouse, adult child, or other
20 relative by consanguinity or affinity of the vulnerable
21 elder.

22 (2) Is a caretaker for the vulnerable elder other
23 than a facility or person governed by chapter 235E.

24 (3) Is a person who is in a confidential
25 relationship with the vulnerable elder.

26 c. "*Undue influence*" means taking advantage of a
27 person's role, relationship, or authority to improperly
28 change or obtain control over the actions or decision
29 making of a vulnerable elder against the vulnerable
30 elder's best interests.

31 d. "*Vulnerable elder*" means the same as defined in
32 section 235F.1.

33 Sec. 10. CODE EDITOR DIRECTIVES. The Code editor
34 shall create a new subchapter in chapter 726, entitled
35 "protection of vulnerable elders" that includes section
36 726.24, as enacted in this Act.

37 DIVISION III

38 CONFORMING AMENDMENTS

39 Sec. 11. Section 13.2, subsection 1, Code 2014, is
40 amended by adding the following new paragraph:

41 NEW PARAGRAPH. o. Develop written procedures and
42 policies to be followed by prosecuting attorneys in the
43 prosecution of elder abuse and financial exploitation
44 of a vulnerable elder under chapter 235F and section
45 726.24.

46 Sec. 12. Section 13.31, subsection 3, Code 2014, is
47 amended to read as follows:

48 3. Administer the domestic abuse program provided
49 in chapter 236 and elder abuse actions commenced under
50 chapter 235F.

1 Sec. 13. Section 135B.7, Code 2014, is amended by
2 adding the following new subsection:
3 NEW SUBSECTION. 5. The department shall also adopt
4 rules requiring hospitals to establish and implement
5 protocols for responding to the needs of patients who
6 are victims of elder abuse, as defined in section
7 235F.1.
8 Sec. 14. Section 232.8, subsection 1, Code 2014, is
9 amended by adding the following new paragraph:
10 NEW PARAGRAPH. *e.* The juvenile court shall have
11 jurisdiction in proceedings commenced against a child
12 pursuant to section 235F.2 over which the district
13 court has waived its jurisdiction. The juvenile court
14 shall hear the action in the manner of an adjudicatory
15 hearing under section 232.47, subject to the following:
16 (1) The juvenile court shall abide by the
17 provisions of sections 235F.5 and 235F.6 in holding
18 hearings and making a disposition.
19 (2) The plaintiff is entitled to proceed pro se
20 under section 235F.3.
21 Sec. 15. Section 232.22, subsection 1, Code 2014,
22 is amended by adding the following new paragraph:
23 NEW PARAGRAPH. *h.* There is probable cause to
24 believe that the child has committed a delinquent
25 act which would be elder abuse under chapter 235F if
26 committed by an adult.
27 Sec. 16. Section 232.52, subsection 2, Code 2014,
28 is amended by adding the following new paragraph:
29 NEW PARAGRAPH. *i.* In the case of a child
30 adjudicated delinquent for an act which would be a
31 violation of chapter 235F if committed by an adult,
32 an order requiring the child to attend a batterers'
33 treatment program under section 708.2B.
34 Sec. 17. Section 331.424, subsection 1, paragraph
35 a, subparagraph (6), Code 2014, is amended to read as
36 follows:
37 (6) The maintenance and operation of the courts,
38 including but not limited to the salary and expenses
39 of the clerk of the district court and other employees
40 of the clerk's office, and bailiffs, court costs
41 if the prosecution fails or if the costs cannot be
42 collected from the person liable, costs and expenses
43 of prosecution under section 189A.17, salaries and
44 expenses of juvenile court officers under chapter 602,
45 court-ordered costs in domestic abuse cases under
46 section 236.5 and elder abuse cases under section
47 235F.6, the county's expense for confinement of
48 prisoners under chapter 356A, temporary assistance
49 to the county attorney, county contributions to a
50 retirement system for bailiffs, reimbursement for

1 judicial magistrates under section 602.6501, claims
2 filed under section 622.93, interpreters' fees under
3 section 622B.7, uniform citation and complaint supplies
4 under section 805.6, and costs of prosecution under
5 section 815.13.

6 Sec. 18. Section 562A.27A, subsection 3, paragraph
7 a, subparagraph (1), Code 2014, is amended to read as
8 follows:

9 (1) The tenant seeks a protective order,
10 restraining order, order to vacate the homestead, or
11 other similar relief pursuant to chapter 235F, 236,
12 598, 664A, or 915, or any other applicable provision
13 which would apply to the person conducting the
14 activities causing the clear and present danger.

15 Sec. 19. Section 562B.25A, subsection 3, paragraph
16 a, subparagraph (1), Code 2014, is amended to read as
17 follows:

18 (1) The tenant seeks a protective order,
19 restraining order, order to vacate the homestead, or
20 other similar relief pursuant to chapter 235F, 236,
21 598, 664A, or 915, or any other applicable provision
22 which would apply to the person conducting the
23 activities causing the clear and present danger.

24 Sec. 20. Section 598.7, subsection 1, Code 2014, is
25 amended to read as follows:

26 1. The district court may, on its own motion or
27 on the motion of any party, order the parties to
28 participate in mediation in any dissolution of marriage
29 action or other domestic relations action. Mediation
30 performed under this section shall comply with the
31 provisions of chapter 679C. The provisions of this
32 section shall not apply if the action involves a child
33 support or medical support obligation enforced by
34 the child support recovery unit. The provisions of
35 this section shall not apply to actions which involve
36 elder abuse as defined in section 235F.1 or domestic
37 abuse pursuant to chapter 236. The provisions of
38 this section shall not affect a judicial district's
39 or court's authority to order settlement conferences
40 pursuant to rules of civil procedure. The court shall,
41 on application of a party, grant a waiver from any
42 court-ordered mediation under this section if the party
43 demonstrates that a history of domestic abuse exists as
44 specified in section 598.41, subsection 3, paragraph
45 "j".

46 Sec. 21. Section 598.16, subsection 7, Code 2014,
47 is amended to read as follows:

48 7. Upon application, the court shall grant a waiver
49 from the requirements of this section if a party
50 demonstrates that a history of elder abuse, as defined

1 in section 235F.1, or domestic abuse, as defined in
2 section 236.2, exists.

3 a. In determining whether a history of elder abuse
4 exists, the court's consideration shall include but
5 is not limited to commencement of an action pursuant
6 to section 235F.2, the issuance of a court order or
7 consent agreement pursuant to section 235F.6, the
8 issuance of an emergency order pursuant to section
9 235F.7, the holding of a party in contempt pursuant to
10 section 664A.7, the response of a peace officer to the
11 scene of alleged elder abuse, or the arrest of a party
12 following response to a report of alleged elder abuse.

13 b. In determining whether a history of domestic
14 abuse exists, the court's consideration shall include
15 but is not limited to commencement of an action
16 pursuant to section 236.3, the issuance of a protective
17 order against a party or the issuance of a court order
18 or consent agreement pursuant to section 236.5, the
19 issuance of an emergency order pursuant to section
20 236.6, the holding of a party in contempt pursuant
21 to section 664A.7, the response of a peace officer
22 to the scene of alleged domestic abuse or the arrest
23 of a party following response to a report of alleged
24 domestic abuse, or a conviction for domestic abuse
25 assault pursuant to section 708.2A.

26 Sec. 22. Section 598.41, subsection 3, paragraph j,
27 Code 2014, is amended to read as follows:

28 j. Whether a history of elder abuse, as defined in
29 section 235F.1 or domestic abuse, as defined in section
30 236.2, exists.

31 (1) In determining whether a history of elder abuse
32 exists, the court's consideration shall include but
33 is not limited to commencement of an action pursuant
34 to section 235F.2, the issuance of a court order or
35 consent agreement pursuant to section 235F.6, the
36 issuance of an emergency order pursuant to section
37 235F.7, the holding of a party in contempt pursuant to
38 section 664A.7, the response of a peace officer to the
39 scene of alleged elder abuse or the arrest of a party
40 following response to a report of alleged elder abuse.

41 (2) In determining whether a history of domestic
42 abuse exists, the court's consideration shall include
43 but is not limited to commencement of an action
44 pursuant to section 236.3, the issuance of a protective
45 order against the parent or the issuance of a court
46 order or consent agreement pursuant to section 236.5,
47 the issuance of an emergency order pursuant to section
48 236.6, the holding of a parent in contempt pursuant
49 to section 664A.7, the response of a peace officer to
50 the scene of alleged domestic abuse or the arrest of

1 a parent following response to a report of alleged
2 domestic abuse, or a conviction for domestic abuse
3 assault pursuant to section 708.2A.

4 Sec. 23. Section 598.41D, subsection 4, paragraph
5 b, subparagraph (2), Code 2014, is amended to read as
6 follows:

7 (2) That the specified family member does not have
8 a history of elder abuse, as defined in section 235F.1
9 or domestic abuse, as defined in section 236.2.

10 (a) In determining whether a history of elder abuse
11 exists, the court's consideration shall include but
12 is not limited to commencement of an action pursuant
13 to section 235F.2, the issuance of a court order or
14 consent agreement pursuant to section 235F.6, the
15 issuance of an emergency order pursuant to section
16 235F.7, the holding of a party in contempt pursuant to
17 section 664A.7, the response of a peace officer to the
18 scene of alleged elder abuse or the arrest of a party
19 following response to a report of alleged elder abuse.

20 (b) In determining whether a history of domestic
21 abuse exists, the court's consideration shall include
22 but is not limited to commencement of an action
23 pursuant to section 236.3, the issuance of a protective
24 order against the individual or the issuance of a
25 court order or consent agreement pursuant to section
26 236.5, the issuance of an emergency order pursuant to
27 section 236.6, the holding of an individual in contempt
28 pursuant to section 664A.7, the response of a peace
29 officer to the scene of alleged domestic abuse or the
30 arrest of an individual following response to a report
31 of alleged domestic abuse, or a conviction for domestic
32 abuse assault pursuant to section 708.2A.

33 Sec. 24. Section 598.42, Code 2014, is amended to
34 read as follows:

35 **598.42 Notice of certain orders by clerk of court.**

36 The clerk of the district court shall provide notice
37 and copies of temporary or permanent protective orders
38 and orders to vacate the homestead entered pursuant
39 to this chapter to the applicable law enforcement
40 agencies and the twenty-four hour dispatcher for the
41 law enforcement agencies, in the manner provided for
42 protective orders under section 235F.6 or 236.5. The
43 clerk shall provide notice and copies of modifications
44 or vacations of these orders in the same manner.

45 Sec. 25. Section 602.6306, subsection 2, Code 2014,
46 is amended to read as follows:

47 2. District associate judges also have jurisdiction
48 in civil actions for money judgment where the amount
49 in controversy does not exceed ten thousand dollars;
50 jurisdiction over involuntary commitment, treatment,

1 or hospitalization proceedings under chapters 125 and
2 229; jurisdiction of indictable misdemeanors, class
3 "D" felony violations, and other felony arraignments;
4 jurisdiction to enter a temporary or emergency order of
5 protection under chapter 235F or 236, and to make court
6 appointments and set hearings in criminal matters;
7 jurisdiction to enter orders in probate which do not
8 require notice and hearing and to set hearings in
9 actions under chapter 633 or 633A; and the jurisdiction
10 provided in section 602.7101 when designated as a
11 judge of the juvenile court. While presiding in these
12 subject matters a district associate judge shall employ
13 district judges' practice and procedure.

14 Sec. 26. Section 611.23, Code 2014, is amended to
15 read as follows:

16 **611.23 Civil actions involving allegations of elder**
17 **abuse, sexual abuse, or domestic abuse — counseling.**

18 In a civil case in which a plaintiff is seeking
19 relief or damages for alleged elder abuse as defined
20 in section 235F.1, sexual abuse as defined in section
21 709.1, or domestic abuse as defined in section 236.2,
22 the plaintiff may seek, and the court may grant, an
23 order requiring the defendant to receive professional
24 counseling, in addition to any other appropriate relief
25 or damages.

26 Sec. 27. Section 664A.1, subsection 2, Code 2014,
27 is amended to read as follows:

28 2. "*Protective order*" means a protective order
29 issued pursuant to chapter 232, a court order or
30 court-approved consent agreement entered pursuant
31 to this chapter or chapter 235F, a court order or
32 court-approved consent agreement entered pursuant to
33 chapter 236, including a valid foreign protective
34 order under section 236.19, subsection 3, a temporary
35 or permanent protective order or order to vacate
36 the homestead under chapter 598, or an order that
37 establishes conditions of release or is a protective
38 order or sentencing order in a criminal prosecution
39 arising from a domestic abuse assault under section
40 708.2A, or a civil injunction issued pursuant to
41 section 915.22.

42 Sec. 28. Section 664A.2, subsection 2, Code 2014,
43 is amended to read as follows:

44 2. A protective order issued in a civil proceeding
45 shall be issued pursuant to chapter 232, 235F,
46 236, 598, or 915. Punishment for a violation of a
47 protective order shall be imposed pursuant to section
48 664A.7.

49 Sec. 29. Section 664A.4, subsection 2, Code 2014,
50 is amended to read as follows:

1 2. The clerk of the district court shall
2 provide a notice and copy of the no-contact order
3 to the appropriate law enforcement agencies and the
4 twenty-four-hour dispatcher for the law enforcement
5 agencies in the same manner as provided in section
6 235F.6 or 236.5, as applicable. The clerk of the
7 district court shall provide a notice and copy of a
8 modification or vacation of a no-contact order in the
9 same manner.

10 Sec. 30. Section 664A.5, Code 2014, is amended to
11 read as follows:

12 **664A.5 Modification — entry of permanent no-contact**
13 **order.**

14 If a defendant is convicted of, receives a deferred
15 judgment for, or pleads guilty to a public offense
16 referred to in section 664A.2, subsection 1, or is
17 held in contempt for a violation of a no-contact order
18 issued under section 664A.3 or for a violation of a
19 protective order issued pursuant to chapter 232, 235F,
20 236, 598, or 915, the court shall either terminate or
21 modify the temporary no-contact order issued by the
22 magistrate. The court may enter a no-contact order or
23 continue the no-contact order already in effect for
24 a period of five years from the date the judgment is
25 entered or the deferred judgment is granted, regardless
26 of whether the defendant is placed on probation.

27 Sec. 31. Section 664A.7, subsections 1 and 5, Code
28 2014, are amended to read as follows:

29 1. Violation of a no-contact order issued under
30 this chapter or a protective order issued pursuant to
31 chapter 232, 235F, 236, or 598, including a modified
32 no-contact order, is punishable by summary contempt
33 proceedings.

34 5. Violation of a no-contact order entered for the
35 offense or alleged offense of domestic abuse assault
36 in violation of section 708.2A or a violation of a
37 protective order issued pursuant to chapter 232, 235F,
38 236, 598, or 915 constitutes a public offense and is
39 punishable as a simple misdemeanor. Alternatively, the
40 court may hold a person in contempt of court for such a
41 violation, as provided in subsection 3.

42 Sec. 32. Section 804.7, Code 2014, is amended by
43 adding the following new subsection:

44 NEW SUBSECTION. 7. If the peace officer has
45 reasonable grounds for believing that elder abuse
46 as defined in section 235F.1 has occurred and has
47 reasonable grounds for believing that the person to be
48 arrested has committed it.

49 Sec. 33. Section 915.23, subsection 1, Code 2014,
50 is amended to read as follows:

1 1. An employer shall not discharge an employee, or
2 take or fail to take action regarding an employee's
3 promotion or proposed promotion, or take action to
4 reduce an employee's wages or benefits for actual time
5 worked, due to the service of an employee as a witness
6 in a criminal proceeding or as a plaintiff, defendant,
7 or witness in a civil proceeding pursuant to chapter
8 235F or 236.

9 **Sec. 34. NEW SECTION. 915.50A General rights of**
10 **elder abuse victims.**

11 In addition to other victim rights provided in
12 this chapter, victims of elder abuse shall have the
13 following rights:

14 1. The right to file a pro se petition for relief
15 from elder abuse in the district court, pursuant to
16 chapter 235F.

17 2. The right to receive a criminal no-contact order
18 upon a finding of probable cause, pursuant to section
19 664A.3.

20 **Sec. 35. Section 915.94, Code 2014, is amended to**
21 **read as follows:**

22 **915.94 Victim compensation fund.**

23 A victim compensation fund is established as
24 a separate fund in the state treasury. Moneys
25 deposited in the fund shall be administered by the
26 department and dedicated to and used for the purposes
27 of section 915.41 and this subchapter. In addition,
28 the department may use moneys from the fund for the
29 purpose of the department's prosecutor-based victim
30 service coordination, including the duties defined in
31 sections 910.3 and 910.6 and this chapter, and for the
32 award of funds to programs that provide services and
33 support to victims of elder abuse as defined in section
34 235F.1, domestic abuse or sexual assault as provided in
35 chapter 236, to victims under section 710A.2, and for
36 the support of an automated victim notification system
37 established in section 915.10A. The department may
38 also use up to one hundred thousand dollars from the
39 fund to provide training for victim service providers.
40 Notwithstanding section 8.33, any balance in the fund
41 on June 30 of any fiscal year shall not revert to the
42 general fund of the state.

43 **Sec. 36. CODE EDITOR DIRECTIVE. The Code editor**
44 **shall revise the subchapter VI heading under chapter**
45 **915 to read "Victims of domestic abuse, elder abuse,**
46 **and human trafficking".**

47 **DIVISION IV**

48 **TASK FORCE ON ELDER ABUSE PREVENTION AND INTERVENTION**

49 **Sec. 37. TASK FORCE ON ELDER ABUSE PREVENTION AND**
50 **INTERVENTION.**

1 1. The department on aging shall continue a task
2 force on elder abuse prevention and intervention
3 to continue the work of the elder abuse task force
4 established pursuant to 2012 Iowa Acts, chapter 1056,
5 and continued pursuant to 2013 Iowa Acts, chapter
6 138, section 50. The task force shall include
7 representatives of the department on aging, the office
8 of long-term care resident's advocate, the department
9 of human services, the department of inspections and
10 appeals, the department of public health, the office
11 of the attorney general, the department of veterans
12 affairs, the department of public safety, the insurance
13 division of the department of commerce, a county
14 attorney's office with experience in prosecuting elder
15 abuse, the superintendent of banking, the courts, the
16 elder law section of the Iowa state bar association,
17 and other affected stakeholders. The task force shall
18 form workgroups as necessary to address the specific
19 recommendations.
20 2. The task force shall review the report of the
21 task force on elder abuse prevention and intervention
22 submitted in December 2013, develop a unified
23 implementation plan for the recommendations, and make
24 any additional recommendations as necessary.
25 3. The task force shall submit the unified
26 implementation plan and additional recommendations in a
27 report to the elder abuse prevention and intervention
28 legislative interim committee established pursuant
29 to 2013 Iowa Acts, chapter 138, section 51, or its
30 successor committee, by August 15, 2014. The elder
31 abuse prevention and intervention legislative interim
32 committee or its successor committee shall include the
33 chairs and ranking members of the house and senate
34 standing judiciary committees. The interim committee
35 or its successor committee shall meet once during
36 the 2014 legislative interim to receive and make
37 recommendations on the report of the task force.>

COMMITTEE ON JUDICIARY
BALTIMORE of Boone, Chairperson